IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

JUDGMENT

S.B.Civil Writ Petition No.1198/1996

Shivsingh Rajput.

vs.

State of Rajasthan and others.

Date : 8.8.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.SM Parihar, for the petitioner.
Mr.SN Tiwari, Dy.GA, for the respondents.

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BY THE COURT :

Heard learned counsel for the parties.

The petitioner is aggrieved against the order dated 23.12.1995 passed by which the learned Additional Collector, Sirohi set aside the patta issued in favour of the petitioner dated 6.8.1979 by Gram Panchayat, Mohabatnagar.

Brief facts of the case are that a resolution was

passed to give pattas to 12 persons by Gram Panchayat on 6.8.1979 in pursuance of the auction conducted by the Gram Panchayat of the plots. Out of above disposal of 12 plots, one has been challenged by one Shaitan Singh by filing revision petition after 16 years from the date of issuance of the patta and said revision petition was entertained by the learned Additional Collector and was allowed. Learned Additional Collector summoned the record of the Gram Panchayat and found that the proceedings were duly drawn for confirmation of sale of 12 plots which is dated 6.8.1979. Plot no.6 was sold to the petitioner for a consideration of Rs.1,201/-. That was the bid given the petitioner in public auction. Learned Additional Collector found that the signature of Sarpanch is not tallying which is available on patta with the signatures which are available on other documents. The petitioner purchased plot of Rs.1,201/- whereas the receipt dated 19.8.1979 is of only Rs.120/-. On the patta, there was no signature of the purchaser nor it was signed by any attesting witness. In view of the above reasons, learned Additional Collector allowed the revision and set aside the patta of plot no.6 dated 6.8.1979.

Learned counsel for the petitioner vehemently submitted that a specific objection was raised before the learned Additional Collector against entertaining

the revision petition under Section 27A of the Rajasthan Panchayat Act after 16 years of auction of the plot and issuance of patta in favour of the petitioner but without considering and deciding this objection, learned Additional Collector decided the revision petition without even carefully examining the record which was very much available with him. Learned Additional Collector observed that a receipt of Rs.120/- only was issued on 19.8.1979 whereas the purchase cost of the plot was Rs.1,201/-. Learned counsel for the petitioner has placed on record the original receipt by which the petitioner deposited Rs.120/- at the time of giving bid and that receipt is Ex.8. This was 10% of the total amount of plot and in the receipt, it is clearly mentioned that by this, the petitioner deposited 10% of the cost of plot. Learned counsel for the petitioner also submitted that the petitioner and other successful bidders deposited the remaining amount on 14.12.1979 and which is duly entered in the cash register and copy of which is placed on record as Ex.12. In Ex.12, the petitioner's name is mentioned. The receipt no.40 dated 14.12.1979 was issued to the petitioner for balance amount. Therefore, the finding of the Additional Collector that the petitioner did not deposit Rs.1,081/- is factually wrong. So far as the signature of Sarpanch on the pattas is concerned, which were issued from time to

time, in all the pattas, the signatures of Sarpanch were different because the Sarpanch had not much practice of writing though he was literate. It is further submitted that the Additional Collector did not gave any opportunity to the petitioner to prove that the signatures of Sarpanch were put by the Sarpanch himself. It is also submitted that complainant Shaitan Singh could show any reason to challenge the patta of the petitioner out of 12 pattas issued by the Gram Panchayat on the same dates by one resolution that too when sale was affected after public auction. Even if there was any irregularity, then on this ground, the patta of 1979 could not have been set aside after 16 years.

Learned counsel for the respondents submitted that the Additional Collector recorded the reasons for setting aside the patta. There is no revision under the Panchayat Act. Once the Additional Collector decided the issue on merits, then on the ground of any bar of limitation, the order of the Additional Collector cannot be set aside.

I considered the submission of learned counsel for the parties and perused the documents produced along with the writ petition which include the original receipt showing that the petitioner was asked to

deposit 10% of the cost of plot at the time of auction and due receipt was given to the petitioner, therefore, the reason given by the Additional Collector that in palce of Rs.1,201/-, the petitioner deposited only 120/- is factually wrong. Not only this, the petitioner also placed on record the copy of the order dated 6.8.1979 (Ex.6) wherein also, it is mentioned that after completion of auction, the petitioner deposited Rs.120/- vide receipt dated 6.8.1979. It is worthwhile to note that plots were sold by public auction and this fact is not disputed.

So far as signature of Sarpanch as available on patta in question and it is not tallying with other signatures available in the file is concerned, that appears to be because of the reason that Sarpanch, that too of the year 1979 of a small village, may not be very careful in signing his signature or may not have good practice of writing and this fact is clearly proved by copies of several pattas which have not been placed on record wherein the signatures of the same Sarpanch are different. Learned Additional Collector compared the signature with some or one of the signature of Sarpanch and ignored the other documents, therefore also, the reason given by the learned Additional Collector is not sustainable.

So far as violation of Rules are concerned, that allegation is also vague because on one day, 12 plots were auctioned. If this was consideration, then pattas were invalid in all cases and, therefore, what was the reason for the complainant to pick up one case. It appears to be because of some particular reason. In that fact situation, there was no reason for the Additional Collector to entertain the revision petition after 16 years.

In view of the above reasons, this writ petition is allowed and the order of the Additional Collector, Sirohi dated 23.12.1995 is set aside. No order as to costs.

(PRAKASH TATIA), J.

S.Phophaliya